

REMARKS

Initially, it is noted that the examiner has objected to the drawings because, in the Examiner's opinion, the drawings fail to show that the first and second side object receiving cradles overlap and separated by a distance generally equal to the thickness of the elongated member. In addition, the Examiner has rejected claims 1-2, 4-6, 9-10 and 15 under 35 U.S.C. § 112, first and second paragraphs, as failing to comply with the written description requirement and as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards at the invention.

In response to the Examiner's objection to the drawings and the rejections under 35 U.S.C. § 112, first and second paragraphs, applicant has amended independent claims 1 and 9 to delete the term "overlap" therefrom. More specifically, applicant amended such claims to indicate that the first and second object receiving cradles includes corresponding apexes and that the apexes are separated by a distance generally equal to the thickness of the elongated member. It is believed that this new limitation is clearly shown in the drawings and described in the Specification, and as such, for the reasons noted hereinafter, withdrawal of the Examiner's objection to the drawings and the rejections under 35 U.S.C. § 112, first and second paragraphs, is respectfully requested.

Referring to the Specification, it states that the depressions 23 (or object receiving cradles as referred to in the claims) have a height. See, Specification, page 7, lines 10-16. Further, the Specification repeatedly refers to the ribs defining the depressions as arcuate. As is known, by definition, an apex is merely the highest point of an arc. As such, given that the Specification clearly discloses object receiving cradles having a predetermined

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height, the apexes of such object receiving cradles must be inherently disclosed in the Specification. Further, referring to Fig. 6, 9 and 14, it is noted that the apexes of the object receiving cradles are clearly depicted. As best seen in Fig. 9, the apex of a first object receiving cradle on a first side of the elongated member and the apex of a second side object receiving cradle are separated by a distance generally equal to the thickness of the elongated member. Hence, given that the subject matter of amended claims 1 and 9 are disclosed in the present application, withdrawal of the Examiner's objection to the drawings and of the rejections under 35 U.S.C. § 112, first and second paragraphs, is respectfully requested. It is noted that since applicant's amended language is merely an attempt to clarify the term "overlap" to which the examiner has objected, it is believed that adding the present limitation to claims 1 and 9 does not necessitate further consideration by the examiner and a new search.

The Examiner has also provisionally rejected claims 1-2, 4-6, 9-10 and 15 under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 6-7 and 9-14 and 19-20 of co-pending application Serial No. 09/836,769. In the event of allowance of the present application and the above-identified claims of the co-pending '769 application, applicant will consider filing a Terminal Disclaimer to alleviate the obviousness type double patent objection.

The Examiner has also rejected all of the claims under 35 U.S.C. § 102(b) as being anticipated by Emery, U.S. Patent No. 836,769 and by Williams, U.S. Patent No. 2,808,189. In order to clarify the invention for which protection is sought, Applicant has amended independent claims 1 and 9, as heretofore described. It is now believed that the present

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claims clearly define over the cited references, and as such, reconsideration of the Examiner's rejections is respectfully requested in view of the following comments.

Claim 1 defines a support structure for supporting an object. The support structure includes an elongated member extending along a longitudinal axis and have first and second sides, first and second edges and a thickness. A first set of rib projects from the first side of the elongated member and corresponds to a first set of depressions in the second side of the elongated member. The first set of ribs includes first and second ribs axially spaced from each other and from corresponding edges of the elongated member along an axis transverse to the longitudinal axis. A second set of ribs projects from the first side of the elongated member at a location axially spaced from the first set of ribs so as to define a first object receiving cradle therebetween. The second set of ribs includes first and second ribs axially spaced from each other along the second axis transverse to the longitudinal axis of the elongated member. The first rib projects from the second side of the elongated member and corresponds to a first depression in the first side of the elongated member between the first and second ribs of the first set of ribs. The second rib projects from the second side of the elongated member at a location axially spaced from the first rib projecting from the second side of the elongated member so as to define a second side object receiving cradle therebetween. A second rib projecting from the second side of the elongated member corresponds to a second depression in the first side of the elongated member between the first and second ribs of the second set of ribs. The first object receiving cradle opens in the first direction and the second side object receiving cradle opens in the second direction opposite of the first direction. In addition, the first object receiving cradle and second side object receiving cradle include corresponding apexes. The apex of the first object receiving cradle and the apex of the second side object receiving cradle are separated by a distance

generally equal to the thickness of the elongated member. As defined, neither of the cited references shows or suggests the structure defined in independent claim 1.

The Emery '879 patent is directed to a molded pulp valve tray and package. Referring to the notes in the co-pending '769 application referred to in the present Office Action, the Examiner suggests that the valve tray includes first and second sets of ribs projecting from the first side of the elongated member, as well as, first and second ribs projecting from the second side of the elongated member. The first and second ribs define a first object receiving cradle 48 in the upper surface of the valve tray and the first and second ribs projecting from the second side of the valve tray define a second object receiving cradle 52 in the lower surface of the valve tray. However, it is noted that unlike the structure defined in independent claim 1 which requires the apexes of the first object receiving cradle and a second object receiving cradle to be separated by distance generally equal to the thickness of the elongated member, the apexes in the object receiving cradles in the molded pulp valve tray disclosed in the '879 patent are separated by a distance substantially greater than the thickness of the elongated member, Fig. 3 of the '879 patent. In other words, the apexes of the cradles are offset. The structure disclosed in the '879 patent is provided in order for the molded pulp valve tray to accommodate cylindrical objects having laterally projecting flanges at one or more of the ends thereof. As a result, by vertically spacing the elongated objects supported by the valve tray, it can be appreciated that fewer objects may be supported by the valve tray in a given area. This is a significant disadvantage over the structure defined in independent claim 1 wherein the objects are separated merely by the thickness of the elongated member. Further, it must be noted that the structure disclosed in the Emery '879 patent may not be modified to provide the support structure defined in independent claim 1. If the apexes of the object receiving cradles disclosed in the '879

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patent were separated by the thickness of the valve tray, as required by independent claim 1, the valve tray disclosed in the ‘879 patent could not support elongated cylindrical objects having laterally projecting flanges at one end thereof, a primary purpose of the invention disclosed in the ‘879 patent. See, Emery, U.S. Patent No. 2,783,879, Column 1, lines 41-44.

The Williams ‘189 patent discloses a packaging material for fragile articles. The packaging material for the sheet having a plurality of recesses formed on one side thereof. The sheet may be folded to define a generally rectangular cavity for housing a plurality of clay pigeons. It is noted that nothing in the Williams ‘189 patent shows or suggests providing a support structure having object receiving cradles on both sides thereof. The Examiner suggests that the depressions 115 in the center portions of the cradles on the first side of the packaging material could define ribs projecting from the second side thereof. However, the depressions 115 disclosed in the Williams ‘189 patent are not orientated between the first and second ribs of the first set of ribs nor are any of the depressions orientated between the first and second ribs of the second set of ribs. It is also noted that even if the depressions and projections shown in the Williams ‘189 patent could define an object receiving cradle as suggested by the Examiner, the apex of the object receiving cradle on the second side of the elongated member is not separated from the apex of the object receiving cradle on the first side of the elongated member by a distance generally equal to the thickness of the elongated member. Further, there is no suggestion or incentive to modify the structure disclosed in the ‘189 patent to provide the claimed invention. Consequently, it is believed that independent claim 1 clearly defines over the Williams ‘189 patent.

In view of the foregoing, it is believed that independent claim 1 defines over the cited references and is in proper form for allowance.

Claims 2 and 4-6 depend either directly or indirectly from independent claim 1 and further define a support section not shown or suggested in the art. It is believed that claims 2 and 4-6 are allowable as depending from an allowable base claim and in view of the subject matter of each claim.

Claim 9 defines a support structure for supporting an object. The support structure includes an elongated member extending along a longitudinal axis and having first and second sides, first and second edges, first and second ends and a thickness. The first side of the elongated member includes a first plurality of ribs, a second plurality of ribs and a plurality of depressions. The first plurality of ribs projects from the first side of the elongated member and is spaced between the first and second ends along a first axis. Each of the first plurality of ribs is laterally spaced from the first edge. The second plurality of ribs also projects from the first side of the elongated member and is spaced between the first and second ends along a second axis. Each of the second plurality of ribs is laterally spaced from the second edge. The plurality of depressions formed in the first side of the elongated member is spaced between the first and second ends along a third axis disposed between the first and second axis. Each of the plurality of depressions is between one of the first plurality of ribs and one of the second plurality of ribs and forms a corresponding rib projecting on the second side of the elongated member. The ribs projecting from the second side of the elongated member are spaced between the first and second ends along a third axis. The ribs projecting on the second side of the elongated member includes a first rib and a second rib. The first rib and the second define a second side object receiving cradle

therebetween. The first plurality of ribs projecting from the first side of the elongated member includes a first rib and a second rib. The first rib and the second rib of the first plurality of ribs partially define a first object receiving cradle therebetween. The first object receiving cradle opens in the first direction and the second object receiving cradle opens in the second direction opposite to the first direction. In addition, the first object receiving cradle and second side object receiving cradle includes corresponding apexes. The apex of the first object receiving cradle and the apex of the second side object receiving cradle are separated by a distance generally equal to the thickness of the elongated member. As defined, neither of the cited references shows or suggests the structure defined in independent claim 9.

As heretofore described with respect to independent claim 1, nothing in the Emery ‘879 patent shows or suggests a support structure that incorporates first and second object receiving cradles on opposite sides of the elongated member that have apexes separated by the thickness of the elongated member. Such a structure is entirely absent from the cited references. Further, as heretofore described, the cited reference cannot be modified to provide the support structure defined in claim 9 and still function for its intended purpose. Hence, it is believed that independent claim 9 clearly defines over the Emery ‘879 patent.

Further, as heretofore described with respect to independent claim 1, nothing in the Williams ‘189 patent shows or suggests the orientation and location of the ribs on the first and second sides of the elongated member. In addition, nothing in the Williams ‘189 patent shows or suggests an elongated member having object receiving cradles on opposite sides thereof wherein the apexes of such object receiving cradles are separated by the thickness of the elongated member. Such a structure is entirely absent from the Williams ‘189 patent.

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As such, it is believed that independent claim 9 defines over the cited references and is in proper form for allowance.

Claim 15 depends from independent claim 9 and further defines a support structure not shown or suggested in the art. It is believed that claim 15 is allowable as depending from an allowable base claim and in view of the subject matter of each claim.

Applicant believes that the present application with claims 1-2, 4-6, 9 and 15 is in proper form for allowance and such action is earnestly solicited. Applicant believes that no fees are due at this time. However, the Director is hereby authorized to charge any fees, or credit any overpayment to Deposit Account No. 50-1170.

Respectfully submitted,

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